

REMARKS

Applicants thank the Examiner for the very thorough consideration given the present application. Claims 2-12 and 15-22 are currently pending in this application. No new matter has been added by way of the present amendment. For instance, the amendment to claim 1 is supported by page 12, lines 16-22. New claims 18-22 find support at, for example, page 12, line 27 to page 13, line 12. Accordingly, no new matter has been added.

In view of the amendments and remarks herein, as well as the amendments and remarks of July 30, 2010, Applicants respectfully request that the Examiner withdraw all outstanding rejections and allow the currently pending claims.

Issues Under 35 U.S.C. § 103

Claims 2-12, 15 and 16 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 5,811,446 (hereinafter “Thomas”), in view of U.S. Patent 5,994,372 (hereinafter “Yaksh”) and U.S. Patent 5,116,868 (hereinafter “Chen”). Applicants respectfully traverse.

The Examiner maintains his previous position that the cited references render the claimed invention obvious. In the Advisory Action issued on July 15, 2010, the Examiner noted:

“Because of this reason alone, applicants arguments focusing on the use of the compositions of Thomas to treat posterior segment diseases must fail, as these arguments ignore the express teaching of alternative treatments in which the compositions therein described may be properly and advantageously used.”

Applicants submit that the Examiner has failed to establish a *prima facie* case of obviousness. As previously discussed (see, for example, Response to Office Action filed on June

30, 2010), Thomas does not teach or suggest the use of a composition containing α - or β -hydroxyacid in the treatment of posterior segment diseases. Rather, Thomas merely teaches that α - or β -hydroxyacid or the like are contained in cosmetics. Therefore, Thomas does not in any way teach or suggest the use of a composition containing α - or β -hydroxyacid in an ophthalmological eye drop composition.

The claimed method, as set forth in pending claim 12, comprises administering an ophthalmological eye drop composition comprising 3-hydroxybutyric acid and/or salts thereof to a patient having a tear abnormality to treat said tear abnormality. The ophthalmological eye drop composition of the present invention is not a cosmetic, but rather a pharmaceutical composition. Applicants reaffirm that Thomas fails to teach or suggest the use of α - or β -hydroxyacid or the like in an ophthalmological eye drop composition for the treatment of tear abnormalities, such as posterior segment diseases and other eye diseases.

Reconsideration and withdrawal of this rejection are respectfully requested.

Conclusion


All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and objections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action and, as such, the present application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Vanessa Perez-Ramos, Reg. No. 61,158 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

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